

**REMARKS**

**Amendment To The Specification**

The foregoing amendment to the Specification is for purposes of correcting an obvious typographical error.

**Election/Restrictions**

Applicant traverses the election of species requirement, insofar as it applies to Claims 6–9, 13–17, 20–23, 28–31, and 33–36. These claims depend, either directly or indirectly, from generic claims which have been examined and, for the reasons hereinafter developed, are considered allowable. Accordingly, it is respectfully submitted that the claims are properly examinable in the present application.

No traversal of the restriction requirement as to Claims 39 and 40 is made. It is requested that these claims be permitted to remain in the present application, pending the possible filing of a divisional application addressed to them.

Claims 3, 18, 25 and 37 have been amended so as to be independent of any rejected base claim and to include all of the limitations of the base claims upon which they depended. Accordingly, in keeping with the Examiner's indication of a allowable subject matter, it is submitted that these claims and dependent Claims 4 and 26 are now in condition for allowance.

**Claim Rejections – 35 USC § 103**

Claims 1 and 24, the only independent claims under rejection, have been amended to define that the legs of the claimed chair each have “a free end portion separate from the other legs to provide free access between the legs.” The structure thus defined is for purposes of addressing the shortcomings of prior art chairs, wherein structure between the legs of the chairs restricts free access

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therebetween and impedes the stackability of the chairs during transport and storage (see page 2, lines 2 to 6 of the Specification).

The distal ends of the legs 25a, 26a or principal reference patent 4,835,933 to Yung are connected by a plate 20 which spans the space between the legs. This is the antithesis of that which applicants are now claiming in Claims 1 and 24. Secondary reference patent 3,830,032 to Rob in no way suggests how to overcome this shortcoming. The conical center portion of Rob is continuous and does not form legs. Generally vertically extending legs extend vertically from flanges which extend outwardly from the conical wall 30 of Rob. Secondary reference 6,089,522 to Haslem, et al. is cited for the teaching of polymeric material. It does not teach or suggest a chair having legs of a T-shaped cross-section having arcuate outer surfaces which define segments of a cone having free end portions separate from one another.

Applicants also contest the Examiner's conclusion that it would have been obvious to one having ordinary skill in the art to provide the generally conical support portions of the Yung chair with inwardly extending web portions, as taught by the Rob patent. Such a modification would have been clearly contrary to Yung's goal of providing enlarged openings 28-30 to facilitate the flow of concrete into the hollow space within the spacer chair (see column 4, lines 9 to 12 of the Yung patent). It is also significant that Yung's legs 25a, 26a neither terminate at a distal end, nor include web portions which form a distal end. Both the conical leg portions 25a and 26a of Yung and the web portions 25b and 26b thereon terminate at and merge into the plate portion 20. Yung has separate feet 20-23 which extend from the undersurface of the plate portion to provide distal-like extensions.

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CONCLUSION

It is respectfully submitted that Claims 1 and 24 are allowable and generic to all of the claims, except claims 39 and 40. Accordingly, these claims, and the claims dependent thereon (numbers 2, 5-17, 19-24, and 27-36 and 38) are believed properly examinable in the present application and in condition for allowance.

Claims 3, 4, 18, 25, 26, and 37 have been indicated as being allowable as to subject matter. Accordingly, since these claims are now independent of any claims under rejection and include all of the limitation of the base claim and any intervening claims, it is respectfully submitted that these claims are clearly in condition for allowance.

Claims 39 and 40 have been withdrawn from consideration and are not urged as being examinable in the present application.

Respectfully submitted,

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